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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 GEORGIA MILES,  
12 Petitioner,  
13 v.  
14 PLUMAS COUNTY,  
15 Respondent.  
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No. 2:20-cv-1308-WBS-EFB P

FINDINGS AND RECOMMENDATIONS

17 Petitioner is confined to Napa State Hospital. She proceeds without counsel seeking a  
18 writ of habeas corpus using a form intended for filing in a California state court.<sup>1</sup> Petitioner states  
19 that she is “awaiting trial” at the Napa State Hospital. ECF No. 1 at 2, 5. She states that she has  
20 been “jailed” to keep her from her family and that various counties against whom she has filed  
21 lawsuits are trying “to get all [her] cases closed.” *Id.* at 3. She also states she has been denied  
22 dentures and medication for migraines. *Id.* at 5. For the reasons stated below, the petition must  
23 be dismissed.

24 As noted, petitioner has used a form petition intended for filing in state court. Generally,  
25 inmates seeking habeas relief in federal district court do so by way of 28 U.S.C. § 2254. The  
26 court, however, cannot construe petitioner’s filing as such. Section 2254 applies only to persons  
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<sup>1</sup> She has paid the filing fee.

1 in custody pursuant to the judgment of a state court. *See* 28 U.S.C. § 2254(a) (“[A] district court  
 2 shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant  
 3 to the judgment of a State court only on the ground that he is in custody in violation of the  
 4 Constitution or laws or treaties of the United States.”). Although petitioner is in custody under  
 5 the authority of a state, she identifies herself as a pretrial detainee. Thus, there is no judgment and  
 6 § 2254, applicable to prisoners in custody pursuant to the judgment of a state court, does not  
 7 apply. Furthermore, if petitioner wishes to challenge the conditions of her confinement at Napa  
 8 State Hospital, the proper means for doing so is by filing a civil rights complaint pursuant to 42  
 9 U.S.C. § 1983. *See Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citing *Preiser v. Rodriguez*,  
 10 411 U.S. 475, 500 (1973)).

11 Accordingly, IT IS HEREBY RECOMMENDED that petitioner’s application for a writ of  
 12 habeas corpus be dismissed without prejudice.

13 These findings and recommendations are submitted to the United States District Judge  
 14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
 15 after being served with these findings and recommendations, any party may file written  
 16 objections with the court and serve a copy on all parties. Such a document should be captioned  
 17 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
 18 shall be served and filed within fourteen days after service of the objections. Failure to file  
 19 objections within the specified time may waive the right to appeal the District Court’s order.  
 20 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.  
 21 1991). In her objections petitioner may address whether a certificate of appealability should issue  
 22 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section  
 23 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a  
 24 final order adverse to the applicant).

25 DATED: August 27, 2020.

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 27 EDMUND F. BRENNAN  
 28 UNITED STATES MAGISTRATE JUDGE